

IN THE UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

ANTHONY T. VEAL,)
Petitioner,)
v.) CIVIL ACTION NO. 5:10-CV-342 (MTT)
DENNIS BROWN, *Warden*,)
Respondent.)

)

ORDER

This matter is before the Court on United States Magistrate Judge Charles H. Weigle's Recommendation to Grant the Respondent's Motion to Dismiss. (Doc. 16). The Magistrate Judge recommends granting the Motion and dismissing the Petitioner's petition seeking habeas corpus relief because he failed to exhaust his available state remedies. The Petitioner was convicted of malice murder, armed robbery, possession of a sawed-off shotgun, and possession of a firearm during commission of a crime on August 29, 1998, in Putnam County. The Petitioner filed a motion for new trial, which apparently is still pending. The Petitioner did not take any further action on his conviction until December 28, 2009, when he filed a pro se motion to vacate his conviction. After the motion to vacate was denied January 5, 2010, the Petitioner appealed the denial of his motion to vacate January 29, 2010. The status of this appeal is unknown.

The Magistrate Judge held that the Petitioner did not exhaust his available remedies because he could have pursued collateral review in state courts "to address

the delay in his post-conviction review and obtain review of his other claims.” (Doc. 16, at 3). The Petitioner did not file an objection to the Recommendation.

The Court has reviewed the Recommendation, and the Recommendation is adopted and made the order of this Court. The Motion to Dismiss is **GRANTED** and the Petition for Writ of Habeas Corpus is **DISMISSED**. Any application for a certificate of appealability is also **DENIED**. Further, the Petitioner’s Motion for Expansion of the Record (Doc. 15) is **DENIED** as moot.

SO ORDERED, this the 30 day of September, 2011.

S/ Marc T. Treadwell
MARC T. TREADWELL, JUDGE
UNITED STATES DISTRICT COURT